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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,469	04/23/2001	Rodger Williams	2400-667	1931

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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,469

Applicant(s)

WILLIAMS ET AL.

Examiner

Jeffrey A. Shapiro

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 2 and 3 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1 and 4-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Finley et al. Finley et al discloses the following.

As described in Claims 1, 14, 20 and 22;

1. a plurality of displays (361) with associated input devices (see figure 8, element 360, for example);
2. a display controller (360) associated with said plurality of displays, said display controller comprising as follows;

- a. communication electronics (361 and 363) for communicating with a server (380) running a control application (379);
- b. a control system associated with said communication electronics and adapted to;
 - i. run browser applications (see col. 7, lines 1-10) for each of said plurality of displays;
 - ii. receive input from each of said input devices and provide the input to the control application (see abstract, for example);
 - iii. receive instructions for said browser applications from the control application (see col. 8, lines 1-27);

As described in Claim 4;

- 3. said displays are mounted in a kiosk (note that one of the fuel dispensers (100) can be reasonably construed as a kiosk);

As described in Claims 5 and 16;

- 4. a server (380) remote from said display controller and adapted to run said control application;

As described in Claims 6, 16 and 24;

- 5. said server is further adapted to run a web server application configured to provide content to the browser applications of the display controller (see col. 3, lines 27-31);

As described in Claims 7, 17 and 25;

6. said control application is adapted to process the input and provide certain of the instructions for a corresponding one of the browser applications (see col. 8, lines 12-15);

As described in Claims 8, 18, 21 and 26;

7. said control application is adapted to provide certain of the instructions for a corresponding one of the browser applications based on events or instructions unrelated to the input (note, for example, that the SM300 controller "accumulates network-wide event information"—see col. 8, lines 1-27);

As described in Claims 9, 15, 23 and 24;

8. for each of said browser applications, said control system is further adapted to provide a request for content from a web server based on the instructions;

9. receive content in response to the request;

10. display content on a corresponding one of said plurality of displays;

(Note that the SM300 controller "coordinates scheduled updates with the dispenser, for example. See col. 8, lines 1-27. Another example would be display of sale items as well as news and weather. See col. 6, lines 15-21.)

As described in Claim 10;

11. said display controller is assigned one Internet Protocol (IP) address and each of the browser applications is assigned a unique port associated with the IP address (see col. 6, lines 50-62);

As described in Claim 11;

12. said input devices include keys on at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 12;

13. said input devices include touch screen configuration for at least one of said plurality of displays (see col. 6, lines 6-23);

As described in Claim 13;

14. said communication electronics are wireless communications electronics adapted to provide wireless communications with the server (Note that figures 5-7 illustrate a phone line (POTS) which inherently may be accessed by wireless (cell) phone. Note also figure 14, which illustrates site manager (1401) as having a satellite dish labeled as "Hughes".)

As described in Claims 19, 24 and 27;

15. effecting control of a peripheral at the first location with instructions from the second location (see col. 8, lines 1-27 and col. 3, lines 27-31);

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1 and 4-27 are rejected under 35 U.S.C. 102(a) as being anticipated by Siefert. Siefert discloses the following.

As described in Claims 1, 14, 20 and 22;

1. a plurality of displays (see figure 1c, for example, illustrating multiple personal computers (1) with associated input devices (computers necessarily have input devices);
2. a display controller (see col. 8, lines 40-45, noting that a GUI is a display controller) associated with said plurality of displays, said display controller comprising as follows;
 - a. communication electronics (note that computers operating on the internet, intranet or LAN necessarily use modems or other such communications electronics) for communicating with a server (see figure 1c) running a control application (see col. 8, lines 40-45);
 - b. a control system associated with said communication electronics and adapted to;
 - i. run browser applications (see figure 1) for each of said plurality of displays;
 - ii. receive input from each of said input devices and provide the input to the control application (see abstract, for example);
 - iii. receive instructions for said browser applications from the control application (abstract);

Double Patenting

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6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1 and 4-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-27 of U.S. Patent No. 6,052,629. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

8. Claims 1 and 4-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-39 of U.S. Patent No. 6,176,421. Although the conflicting claims are not identical, they are not patentably distinct from each other because they both claim a controller based on web or html architecture for controlling applications and functions at a remote fuel dispenser with display located remotely from a server.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Slotznick, Mindrum, Kavner and Terranova (US 6,422,464 B1) are all cited as examples of fuel dispensers with remote control systems and information access.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone numbers for the organization where this application or proceeding is assigned are (703)306-4195 for regular communications and (703)308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

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A handwritten signature in black ink, appearing to read 'Jeffrey A. Shapiro', with a long horizontal flourish extending to the right.

Jeffrey A. Shapiro
Patent Examiner,
Art Unit 3653

DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

December 16, 2002